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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,259	08/11/2001	Lloyd E. Fladgard	31957.8010US1	5732

25096 7590 10/18/2005

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EXAMINER

BLAKE, CAROLYN T

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/928,259

Applicant(s)

FLADGARD ET AL.

Examiner

Carolyn T. Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 18, 22, 23 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 18, 22, 23 and 44 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8, 18, 22, 23 and 44 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 24, 2005 has been entered.

Election/Restrictions

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. FIGS 4A, 4B, and 4C; and
- II. FIGS 5A, 5B, and 5C.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 34, 68a, 68b, 69a, 69b, 80a, 80b, 84a, 84b, 162b, 164a, 169a, 176a, 179a, 178a, 180a, 180b, 184b, 186b, 188a, 189a.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-6 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeppsson (1,996,813).

Regarding claim 1, Jeppsson discloses a cutting blade (83) for a hand-held cutting tool configured to mount the cutting blade (83) with first and second mounting rods (97, 104) that are spaced from one another by a mounting distance, comprising:

a body having first and second shear faces, the first and second shear faces being spaced from one another (col. 5, lines 55-61);

at least three mounting holes (105, 106, 107) passing through the body, a first pair (105, 107) of the mounting holes being spaced the mounting distance from one another and a second pair of the mounting holes (106, 107) being spaced the mounting distance from one another, at least one of the mounting holes (106) of the second pair (106, 107) not being included in the first pair of mounting holes (105, 107);

a first shear edge (unnumbered, see FIG 9) adapted to cooperate with a reciprocating cutting member (84) to shear a work piece when the first and second mounting rods (97, 104) are received in the first pair of mounting holes (105, 107), the first shear edge being spaced from the first pair of mounting holes (105, 107) by a first distance and in a first orientation with respect thereto and the first shear edge being spaced from the second pair of mounting holes (106, 107) by a second distance and in a second orientation with respect thereto, wherein at

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least one of the second distance and the second orientation differs from a respective one of the first distance and the first orientation; and

a second shear edge (opposite first shear edge, not pictured in FIG 9) adapted to cooperate with the reciprocating cutting member (84) to shear the work piece when the first and second mounting rods (97, 104) are received in the second pair of mounting holes (106, 107), the second shear edge being spaced from the first shear edge, the second shear edge being spaced from the second pair of mounting holes (106, 107) by the first distance and in the first orientation with respect to the second pair of mounting holes (106, 107).

Regarding claim 2, Jeppsson discloses there are three mounting holes (105, 106, 107), one of the mounting holes (107) of the first pair (105, 107) comprising one of the mounting holes (107) of the second pair (106, 107).

Regarding claim 3, Jeppsson discloses the at least three mounting holes comprise a central mounting hole (107), a first outer mounting hole (105) and a second outer mounting hole (106), the central mounting hole (107) being spaced from each of the first (105) and second (106) outer mounting holes by said mounting distance, the first pair of mounting holes (105, 107) comprising the central mounting hole (107) and the first outer mounting hole (105) and the second pair of mounting holes (106, 107) comprising the central mounting hole (107) and the second outer mounting hole (106).

Regarding claim 4, Jeppsson discloses a blunt first guide surface (non-cutting edge, FIGS 2 and 9) extending transversely between the first and second shear faces along a first elongate edge of the body.

Regarding claim 5, Jeppsson discloses the first shear edge is positioned at a junction of the first guide surface and the first shear face and the second shear edge is positioned at a junction of the first guide surface and the second shear face.

Regarding claim 6, Jeppsson discloses the first guide surface is flat to lie flush against a face of the work piece while the work piece is sheared.

Regarding claim 18, Jeppsson discloses a cutting blade (83) for a hand-held cutting tool comprising:

- a body having first and second shear faces, the first and second shear faces defining a thickness of the body (col. 5, lines 55-61);

- a first guide surface (non-cutting edge, FIGS 2 and 9) extending between the first and second shear faces along a first elongate edge of the body;

- a first shear edge (unnumbered, see FIG 9) defined at the junction between the first guide surface and the first shear face and a second shear edge defined at the junction between the first guide surface and the second shear face, the first and second shear edges being parallel to and spaced from one another by the thickness of the body;

- a first pair of mounting points (105, 107) adapted to mate with the support of the housing to position the first shear edge adjacent the reciprocating cutting

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member (84) for shearing a work piece and to position the second shear edge transversely outwardly of both the reciprocating cutting member (84) and the first shear edge, the first pair of mounting points (105, 107) including a central mounting point (107) spaced a first distance from the first shear edge and a first distal mounting point (105) spaced a different second distance from the first shear edge; and

a second pair of mounting points (106, 107) adapted to mate with the support of the housing to position the second shear edge adjacent the reciprocating cutting member (84) for shearing a work piece and to position the first shear edge transversely outwardly of both the reciprocating cutting member (84) and the second shear edge, the second pair of mounting points (106, 107) including the central mounting point (107) which is spaced the first distance from the second shear edge, and a third distal mounting point (106) spaced the second distance from the second shear edge.

9. Claims 1-8, 18, 22, 23, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelizzola (1,920,711).

Regarding claim 1, Pelizzola discloses a cutting blade (1) for a hand-held cutting tool configured to mount the cutting blade (1) with first and second mounting rods that are spaced from one another by a mounting distance, comprising:

a body having first (2, see the *Figures* section at the end of this Office action) and second shear faces (opposite side), the first and second shear faces being spaced from one another;

at least three mounting holes (A-F) passing through the body, a first pair (A, B) of the mounting holes being spaced the mounting distance from one another and a second pair of the mounting holes (B, C) being spaced the mounting distance from one another, at least one of the mounting holes (C) of the second pair (B, C) not being included in the first pair of mounting holes (A, B);

a first shear edge (3) adapted to cooperate with a reciprocating cutting member to shear a work piece when the first and second mounting rods are received in the first pair of mounting holes (A, B), the first shear edge (3) being spaced from the first pair of mounting holes (A, B) by a first distance and in a first orientation with respect thereto and the first shear edge being spaced from the second pair of mounting holes (B, C) by a second distance and in a second orientation with respect thereto, wherein at least one of the second distance and the second orientation differs from a respective one of the first distance and the first orientation; and

a second shear edge (opposite 3 and on the second shear face, see FIG 1 showing multiple edges) adapted to cooperate with the reciprocating cutting member to shear the work piece when the first and second mounting rods are received in the second pair of mounting holes (B, C), the second shear edge being spaced from the first shear edge, the second shear edge being spaced

from the second pair of mounting holes (B, C) by the first distance and in the first orientation with respect to the second pair of mounting holes (B, C).

Regarding claim 2, Pelizzola discloses there are three mounting holes (A-C), one of the mounting holes (B) of the first pair (A, B) comprising one of the mounting holes (B) of the second pair (B, C).

Regarding claim 3, Pelizzola discloses the at least three mounting holes comprise a central mounting hole (B), a first outer mounting hole (A) and a second outer mounting hole (C), the central mounting hole (B) being spaced from each of the first (A) and second (C) outer mounting holes by said mounting distance, the first pair of mounting holes (A, B) comprising the central mounting hole (B) and the first outer mounting hole (A) and the second pair of mounting holes (B, C) comprising the central mounting hole (B) and the second outer mounting hole (C).

Regarding claim 4, Pelizzola discloses a blunt first guide surface (5) extending transversely between the first and second shear faces along a first elongate edge of the body.

Regarding claim 5, Pelizzola discloses the first shear edge (3) is positioned at a junction of the first guide surface (5) and the first shear face (2) and the second shear edge are positioned at a junction of the first guide surface (5) and the second shear face.

Regarding claim 7, Pelizzola discloses the at least three mounting holes (A-F) includes a third pair of mounting holes (D, E), the mounting holes of the

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third pair being spaced said mounting distance from one another, at least one of the mounting holes of the third pair being included in neither of the first and second pairs of mounting holes, the cutting blade further comprising a third shear edge (4) adapted to cooperate with the reciprocating cutting member to shear the work piece, the third shear edge (4) being spaced from the first (3) and second shear edge, the third shear edge (4) being spaced from the third pair of mounting holes (D, E) by the first distance and in the first orientation with respect to the third pair of mounting holes (D, E).

Regarding claim 8, Pelizzola discloses the at least three mounting holes (A-F) includes a fourth pair (E, F) of mounting holes, the mounting holes of the fourth pair (E, F) being spaced said mounting distance from one another, at least one (F) of the mounting holes of the fourth pair (E, F) being included in none of the first (A, B), second (B, C), and third pairs (D, E) of mounting holes, the cutting blade (1) further comprising a fourth shear edge (opposite third shear edge) being spaced from the first (3), second and third (4) shear edges, the fourth shear edge being spaced from the fourth pair of mounting holes (E, F) by the first distance in the first orientation with respect o the fourth pair of mounting holes (E, F).

Regarding claim 18, Pelizzola discloses a cutting blade (1) for a hand-held cutting tool comprising:

a body having first (2) and second (opposite side of 2) shear faces, the first and second shear faces defining a thickness of the body;

a first guide surface (5) extending between the first and second shear faces along a first elongate edge of the body;

a first shear edge (3) defined at the junction between the first guide surface (5) and the first shear face (2) and a second shear edge (opposite 3 and on the second shear face, see FIG 1 showing multiple edges) the junction between the first guide surface (2) and the second shear face, the first (3) and second shear edges being parallel to and spaced from one another by the thickness of the body;

a first pair of mounting points (A, B) adapted to mate with the support of the housing to position the first shear edge adjacent the reciprocating cutting member for shearing a work piece and to position the second shear edge transversely outwardly of both the reciprocating cutting member and the first shear edge (3), the first pair of mounting points (A, B) including a central mounting point (B) spaced a first distance from the first shear edge and a first distal mounting point (A) spaced a different second distance from the first shear edge (3); and

a second pair of mounting points (B, C) adapted to mate with the support of the housing to position the second shear edge adjacent the reciprocating cutting member for shearing a work piece and to position the first shear edge transversely outwardly of both the reciprocating cutting member and the second shear edge, the second pair of mounting points (B, C) including the central mounting point (B) which is spaced the first distance from the second shear

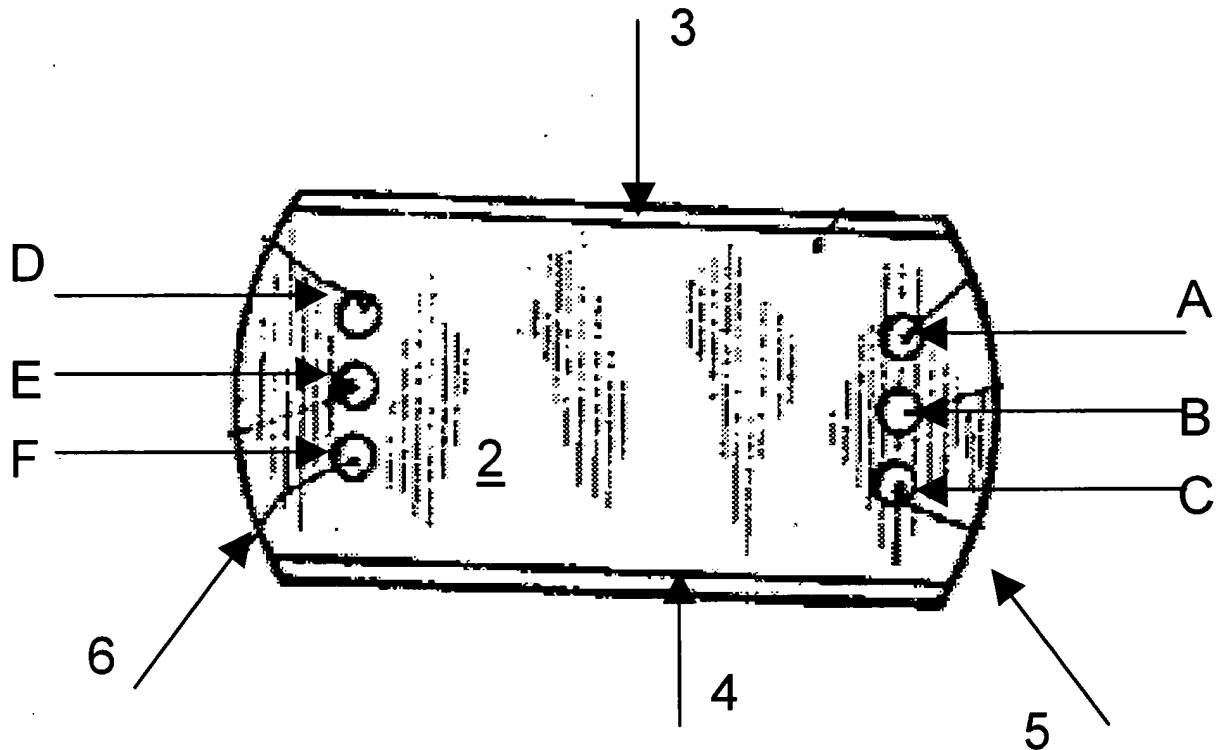
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edge, and a third distal mounting point (C) spaced the second distance from the second shear edge.

Regarding claim 22, Pelizzola discloses the blade (1) further comprises a second guide surface (6) extending between the first (2) and second shear faces along a second elongate edge of the body, the second guide surface (6) being spaced from the first guide surface (5); a third shear edge (4) defined at the junction between the second guide surface (6) and the first shear face (2); and a fourth shear edge (opposite) defined at the junction between the second guide surface (6) and the second shear face.

Regarding claim 23, Pelizzola discloses the blade (1) further comprises a third mount (D) adapted to mate with the support of the housing to position the third shear edge adjacent the reciprocating cutting member for shearing a work piece with the fourth shear edge being spaced transversely outwardly from both the reciprocating cutting member and the third shear edge (4); and a fourth mount (E) adapted to mate with the support of the housing to position the fourth shear edge adjacent the reciprocating cutting member for shearing a work piece with the third edge being spaced transversely outwardly from both the reciprocating cutting member and the fourth shear edge.

Figures



Conclusions

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CB

October 12, 2005



STEPHEN CHOI
PRIMARY EXAMINER